IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.414 OF 2005

Shri Guddukumar Prithviraj Gupta ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr.K.P.Pawar for Applicant.

Mr.D.R.More, A.P.P. for Respondent.

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CORAM: A.M.KHANWILKAR, J.

FEBRUARY 3, 2005.

P.C.

1. Heard Counsel for the parties. Perused the record.

2. I see no reason to depart from the conclusion reached by the lower Court in rejecting the Bail Application preferred by the present Applicant. There is evidence to indicate complicity of the Applicant in the commission of the crime, which is a serious offence. To get over

this position, learned Counsel for the Applicant contends that all the prosecution witnesses have described the place of incident as Adharwadi, whereas, the incident is alleged to have taken place by the complainant at Thankar Pada. This submission clearly overlooks the fact that Thankar Pada is part and parcel of Adharwadi, as is stated by the Investigating Officer, who is present in Court.

. Be that as it may, the case of the Complainant is supported by the evidence of Kallu Manglu Maurya, who was earlier working with Guddu, the Applicant herein and in his evidence, he has spelt out the enemical terms between Guddu and the Complainant on account of trade rivalry.

3. It was then contended that there is no evidence on record to suggest that the complainant was taken to Government Hospital, whereas, the injury certificate produced at Page 15 indicates that it is issued by private Hospital at Thane and no explanation is offered as to why the Complainant got himself treated at Thane. This position

clearly overlooks that the injury certificate issued by Government Hospital at Kalyan dated 21st September 2004 is issued where the complainant was initially treated when referred by Shri S.P.Thorbole, Head Constable. The medical certificate at page 15 is, however, of subsequent date i.e. 23rd September 2004, where later on, the complainant must have continued his treatment for the injuries sustained by him. There is no discrepancy in the injuries mentioned in the injury certificate issued by the Government Hospital or the Private Hospital to doubt the correctness of the claim of the prosecution.

4. It was then contended that every prosecution witness has spoken about threat administered by Deepak and not Guddu, the Applicant herein. This submission overlooks the fact that those witnesses have only spoken about the actual incident when the complainant was assaulted at the relevant time, whereas, the evidence of the Complainant as well as Kallu Manglu Maurya supports the case of the prosecution. In substance, no fault can be found with the view taken by the Court

below that there is material to indicate the complicity of the Applicant in the commission of the crime. Hence, not a case for bail. Rejected.

5. The Sessions Judge, Thane, is directed to assign the case to the Fast Track Court, if already not done, so as to ensure early disposal of the trial.

A.M.KHANWILKAR, J.